

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SECRET GARDEN USA, INC.,

Plaintiff,

v.

ORDER
10-CV-277

JANICE MCILWAIN, ET AL

Defendants.

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1). Plaintiff filed a motion for summary judgment. On September 22, 2010, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that plaintiff's motion be denied.

Plaintiff filed objections to the Report and Recommendation on September 29, 2010.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, plaintiff's motion for summary judgment is denied. The case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: May 13, 2011